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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

EWU MEDIA LLC, a Nevada limited liability
company,

Plaintiff,

v.

MATTHEW CADY, dba CORNERSTONE
SECURITY GROUP; JEFFREY JAMES, dba
CORNERSTONE SECURITY GROUP; and
T.J. LATHROM, dba CORNERSTONE
SECURITY GROUP,

Defendants.

Case No.

PLAINTIFF'S COMPLAINT FOR:

**VIOLATION OF THE DIGITAL
MILLENNIUM COPYRIGHT ACT
(17 U.S.C. § 512(f))**

DEMAND FOR JURY TRIAL

Plaintiff EWU Media LLC ("EWU Media") alleges as follows:

1. EWU Media brings this action for damages incurred as a result of the fraudulent copyright infringement claim alleged by Defendants Matthew Cady, dba Cornerstone Security Group; Jeffrey James, dba Cornerstone Security Group; and T.J. Lathrom, dba Cornerstone Security Group (collectively "Defendants") in the context of a wrongful Digital Millennium Copyright Act ("DMCA") takedown notice that Defendants submitted to YouTube. Defendants'

wrongful takedown notice improperly targeted EWU's copyright-protected videos on YouTube, causing EWU Media significant harm and financial losses.

PARTIES

2. Plaintiff EWU Media is a limited liability company, organized and existing under the laws of the State of Nevada, with a principal place of business at 3225 McLeod Drive #110, Las Vegas, Nevada 89121.

3. Defendants Matthew Cady, Jeffrey James, and T.J. Lathrom own and operate a security services business under the assumed business name of Cornerstone Security Group ("Cornerstone"), which is registered as an assumed business name with the Oregon Secretary of State, and has a principal place of business at 10305 SW Wilsonville Road, Apt. 22, Wilsonville, Oregon 97070.

4. Upon information and belief, Defendant Matthew Cady is a registrant/owner of Cornerstone, residing at 10305 SW Wilsonville Road, Apt. 22, Wilsonville, Oregon 97070.

5. Upon information and belief, Defendant Jeffrey James is a registrant/owner of Cornerstone, residing at 10305 SW Wilsonville Road, Apt. 22, Wilsonville, Oregon 97070.

6. Upon information and belief, Defendant T.J. Lathrom is a registrant/owner of Cornerstone, residing at 10305 SW Wilsonville Road, Apt. 22, Wilsonville, Oregon 97070.

JURISDICTION AND VENUE

7. The Court has jurisdiction over EWU Media's claims under 28 U.S.C. §§ 1331 and 1338 because this action arises under a federal statute, the DMCA, 17 U.S.C. § 512(f), and relates to copyrights.

8. This Court has personal jurisdiction over Defendants as Defendants are located at 10305 SW Wilsonville Road, Apt. 22, Wilsonville, Oregon 97070. Insofar as Defendants are located in this judicial district, jurisdiction over Defendants is proper.

9. Venue in this district is proper under 28 U.S.C. § 1391(b) because Defendants reside and regularly conduct business in this district and a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in the district.

FACTUAL BACKGROUND

10. EWU Media is a multi-platform video content creation and media production company, which promotes its content on various media platforms such as YouTube, Facebook, Instagram, and TikTok.¹ EWU Media owns and operates multiple channels on these platforms, which are significant sources of revenue for EWU Media, and which depend on viewership, advertising, and the ability to allow its videos to trend and increase in popularity. EWU Media relies on the use of these platforms for generating revenue, operating its business, and expanding its brand. EWU Media's original video content is of the "crime" genre, and EWU Media invests significant time, money, and resources to producing its unique and creative videos. EWU Media is a widely popular and rapidly growing media content creator. Indeed, EWU Media has approximately 5.58 million subscribers on YouTube. Many of its original videos have garnered over 15 million to over 25 million views, and some have over 34 million views. As such, the videos on EWU Media's YouTube channel, and their uninterrupted lifecycles, are of critical importance to its business model.

¹ EWU is an acronym for the moniker "Explore With Us," which EWU Media utilizes on several of its media channels.

11. On August 10, 2024, EWU Media published to its EWU Bodycam YouTube channel its video entitled “*Simple Trespass Incident Takes a Horrifying Turn*” (the “Video”).

12. EWU Media spent a significant amount of time and resources researching, selecting, and editing the content necessary to create the Video, an original documentary work of authorship. EWU Media developed the Video on a current event of public interest for news reporting and educational purposes.

13. The Video contains bodycam footage of a security incident that EWU Media obtained from the Multnomah County District Attorney’s Office pursuant to a public records request, as well as other original content that EWU Media curated, added, and produced with its own original video editing, transitions, graphics, overlays, narration, captions, highlighting, commentary, analysis, and other original elements.

14. In addition to the original and creative content EWU Media added, EWU Media is responsible for the original selection, arrangement, and editing of the underlying public records footage in the Video.

15. The Video concerns a security incident that took place between Cornerstone’s security guards and an individual, decedent Freddy Nelson, Jr., in the parking lot of a metropolitan Portland home improvement store in May 2021. The escalating events between Cornerstone’s security guards culminated in the fatal shooting of Mr. Nelson by a Cornerstone security guard. The Video details these events in a historical and educational context, with additional video editing and other original and creative elements to supplement the contemporaneous video footage of the encounters. The footage of the events is further accompanied by EWU Media’s original reporting, narration, explanations, commentary, and analysis.

16. EWU Media submitted an application to register the Video with the United States Copyright Office on August 15, 2024, which is currently pending registration (Case No. 1-14154611621).

17. Pending the issuance of a registration from the Copyright Office for EWU Media's Video, EWU Media possesses common law copyright rights to the Video.

18. The Video also contains EWU Media's name and original logo in the background throughout the video, which are EWU Media's registered trademarks.

19. On August 22, 2024, EWU Media received a DMCA takedown notice from YouTube concerning the Video ("Takedown Notice"), indicating that Cornerstone issued the removal request to YouTube. *See* Takedown Notice attached as Exhibit 1.

20. Upon information and belief, Cornerstone had not formed a good faith belief that the Video violated any of its copyrights that would have made the Takedown Notice appropriate.

21. Upon information and belief, Cornerstone has no copyright rights to any footage EWU Media utilized in the Video.

22. After receiving the Takedown Notice from YouTube, EWU Media began the process of disputing the Takedown Notice with YouTube, and submitted a counter-notification under 17 U.S.C. § 512(g).

23. The shooting of Mr. Nelson that forms the subject matter of the Video is subject to a pending civil action filed by the estate of Freddy Nelson against Defendants, and others. *See Kari Nelson, et al., v. TMT Development Co., LLC et al.*, in the Circuit Court of the State of Oregon, County of Multnomah (Case No. 21CV40742) ("Wrongful Death Action").

24. Judicial admissions Cornerstone has made in the Wrongful Death Action indicate that Cornerstone submitted the Takedown Notice to prevent the public from accessing and viewing

the Video when Cornerstone's civil case against Ms. Nelson was set to begin trial amidst media coverage of the trial. Defendants' baseless copyright infringement claim under the Takedown Notice appears to be strategically motivated, aiming to disrupt the public's access to this Video, and prevent Cornerstone from being painted in a negative light, at a time when Cornerstone is subject to increased public scrutiny.

25. On August 23, 2024, counsel for EWU Media sent Cornerstone a Cease & Desist and Demand Letter informing Cornerstone that EWU Media was not infringing any of Cornerstone's copyrights, and requested that Cornerstone immediately withdraw its Takedown Notice, and cease and desist from making any other false copyright claims against any of EWU Media's affiliated online channels. To date, Cornerstone has failed and refused to withdraw its Takedown Notice.

26. On or about September 9, 2024, YouTube restored the Video to its platform following EWU Media's appeal to YouTube.

27. EWU Media has lost significant revenue each day that the Video was down because of Cornerstone's wrongful Takedown Notice. At the time that YouTube removed the Video due to the Takedown Notice, it was generating as much as approximately \$6,000 of revenue per day for EWU Media until Cornerstone submitted the unlawful Takedown Notice and caused it to be removed, and was growing in popularity and views, which would increase its daily earning potential. Indeed, many of EWU Media's videos began trending and growing in popularity right around the time Cornerstone had EWU Media's Video removed. Cornerstone's Takedown Notice has not only caused EWU Media a loss in views for Video during the time it was disabled, but a loss in publicity, subscribers, and the ability to allow the Video to accelerate its growth like many of EWU Media's videos do, among other things.

FIRST CLAIM FOR RELIEF
VIOLATION OF DMCA (17 U.S.C. § 512(f))
Misrepresentation of Infringement

28. EWU Media reincorporates the allegations contained in Paragraphs 1 through 28 of this Complaint, as if fully set forth herein.

29. The DMCA provides a mechanism for relief against any person, who knowingly and materially misrepresents “(1) that material or activity is infringing, or (2) that material or activity was removed or disabled by mistake or misidentification,” and provides that the person who makes any such misrepresentation “shall be liable for any damages, including costs and attorneys’ fees, incurred by the alleged infringer, by any copyright owner or copyright owner’s authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.” 17 U.S.C. § 512(f).

30. Defendants knowingly and materially misrepresented to YouTube in the Takedown Notice that EWU Media’s Video infringed copyrights owned by “Cornerstone Security Group.” *See* Exhibit 1.

31. EWU Media’s Video does not infringe any copyrights owned by Defendants.

32. Defendants knew at the time they submitted the Takedown Notice to YouTube that the claims of infringement alleged in the Takedown Notice were false because Defendants do not own a copyright in the video footage EWU Media used in the Video, and/or EWU Media was not infringing any copyrights owned by Defendants. Accordingly, Defendants did not form a good faith belief that EWU Media’s Video infringed their copyrights when they submitted the Takedown Notice to YouTube.

33. Defendants knowingly, materially, willfully, or through willful blindness misrepresented to YouTube that EWU Media's content infringed upon Defendants' copyrights.

34. Pursuant to the notice-and-takedown procedures of the DMCA and YouTube's policies, and in reliance on Defendants' material misrepresentations, YouTube removed the Video from its platform and disabled access to it from August 22, 2024, through at least September 9, 2024.

35. Defendants did not initiate litigation to enforce any alleged copyright they purportedly owned to the underlying footage in the Video or stop any alleged infringement, or timely seek a Court order to restrain EWU Media from engaging in the allegedly infringing activity relating to the material on the service provider's system or network. Defendants improperly used the Takedown Notice as a sword to suppress publication of embarrassing video content, rather than as a shield to protect their alleged intellectual property rights.

36. Defendants' improper and unlawful Takedown Notice directly and proximately caused EWU Media economic harm and prevented public access to the Video at a time of great public interest in the Video and the subject matter that it covered. Furthermore, while the Video has been restored onto YouTube, its absence from the platform resulted in economic losses to EWU Media and has stalled its growing momentum in views and popularity, causing EWU Media additional financial and reputational harm.

37. Pursuant to 17 U.S.C. § 512(f), EWU Media is entitled to an award of damages of not less than \$60,000, plus an award of attorneys' fees and costs, for Defendants' wrongful actions, in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff EWU Media prays for relief against Defendants as follows:

1. For compensatory damages in an amount to be proven at trial but not less than \$60,000;
2. For attorneys' fees and costs incurred;
3. For an award of prejudgment interest; and
4. For such other legal and equitable relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff EWU Media, LLC hereby demands a trial by jury on all claims so triable.

Respectfully submitted this 13th day of September, 2024.

BUCHALTER
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